THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETTION NO.19382 OF 1995

BETWEEN:

P.Raghu son of Shayamna

…Petitioner

vs.

The A.P.State Road Transport Corporation, rep. by its MgDirector, Hyderabad and another

..Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETTION NO.19382 OF 1995

ORAL ORDER

The writ petition is misconceived.

By the impugned order an amount of Rs.1,27,249-80 paise was directed to be recovered from the petitioner in 128 monthly installments of Rs.1000/- each and Rs.250/- in the last month, towards penal rent for failing to vacate the official accommodation, despite availing House Building Allowance(H.B.A). H.B.A was sanctioned by the order of the Employer dated.13-05-1987. The impugned order also directed recovery of an amount of Rs.38,700/- from the petitioner's salary at Rs.337/- for a period of 114 months and Rs.282/- in the last month i.e., for a total of 115 months. This recovery was on the basis that the personnel records of the petitioner disclosed that an amount of Rs.38,700/- which was sanctioned as H.B.A on 13-05-1987 was not recovered from the petitioner on account of his removal from service with effect from 21-06-1990. The petitioner was however reinstated with full back wages and all attendant benefits by the award in I.D.No.368 of 1993 and resumed duty on 01-10-1994. For the period during 1990-94 an amount of Rs.38,700/- towards installments of the H.B.A was due.

Challenging the order dated.07-08-1995 the writ petition is filed. The singular ground urged by the petitioner is that no notice was issued to him before passing the impugned order. It is a settled principle that an order, challenged to be in violation of the principles of natural justice i.e., of affording reasonable opportunity to show cause,

is not to be invalidated merely on that ground unless the complainant is shown to suffer a clear prejudice thereby. Neither in the affidavit nor in the assertion at the Bar does the petitioner deny availment of H.B.A or his occupation of the official quarter despite availing such allowance, he does not also deny that recoveries were not made during the period of his ouster from service till his reinstatement pursuant to the award of the Labor Court.

There is another grievance of the petitioner namely that despite the award of the Labour Court-1, Hyderabad dated.12-03-1994 in I.D.No.348 of 1993 directing reinstatment of the petitioner with full back wages including continuity of service and despite publication of the award by G.O.Rt.No.1244 dated.13-06-1994, the respondent corporation has not paid the back wages to the petitioner. Back wages is claimed to work out to Rs.2,38,093.50 paise. The petitioner also states that he is unaware of the computation on the basis of which the penal rent of Rs.1,27,241.80 paise directed to be recovered from him, or the period and the rate at which the penal rent has been worked out.

On the analysis above, in the considered view of this Court the order impugned need not be set aside only on the ground that no notice was afforded to him. However the respondents, in particular the 1st respondent is directed to furnish to the petitioner a calculation memo within two weeks from the date of receipt of a copy of this Order disclosing the basis and calculation for the penal rent of Rs.1,27,249.80 paise that is specified (as due and directed to be recovered) by the impugned order. The respondent shall also compute the balance if any payable to the petitioner after deducting the recoveries under the impugned order from the amount payable to the petitioner under the award of the Labour Court in I.D.No.348 of 1993 and shall pay the amount due by the 1st respondent to the petitioner, within a period of three weeks from the date of receipt of a copy of this

Order.

The writ petition is disposed of as above. There shall be no order as to costs.

GODA RAGHURAM,J

28th NOVEMBER 2006
***TSNR**